

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Optivon Telecommunications Services, Inc. )  
Application Under Section 214 )  
Of the Communications Act of 1934 )  
For Global Authority for the )  
Provision of Resold International )  
Long Distance Service Between the U.S. )  
And the Commonwealth of Puerto Rico )

File No. \_\_\_\_\_

**APPLICATION**

Optivon Telecommunications Services, Inc. ("OTSI") by its attorneys and pursuant to Section 214 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 214, hereby requests authority to operate as a resale carrier of international long distance service pursuant to the terms and conditions of Section 63.18 of the Commission's Rules, 47 C.F.R. § 63.18, between the U.S. mainland and the Commonwealth of Puerto Rico as authorized by the Commission. The public interest, convenience and necessity will be served by grant of this Application, because it will permit OTSI to provide competitive services in the respective markets, which will provide additional choices of services and lower prices for the telecommunications consumers of Puerto Rico and the U.S. mainland.

OTSI was organized under the laws of Puerto Rico, a U.S. possession, and all the persons and entities that have a 10% or more ownership interest in OTSI or its affiliates are U.S. citizens.<sup>1</sup> Moreover, OTSI is not affiliated with a monopoly provider of

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<sup>1</sup> Although Section 63.18 of the Commission's Rules refers to a "foreign point" as a country outside of the U.S. and its territories and possessions (see 47 C.F.R. § 63.18), because this Application requests authority

communications services in any relevant market in Puerto Rico, nor is it affiliated with any dominant U.S. carrier whose services OTSI may sell. Thus, according to Section 63.10(a) of the Commission's Rules, 47 C.F.R. § 63.10(a), OTSI should be classified as a non-dominant carrier in its provision of international service on its requested route. Furthermore, as explained herein, this Application is entitled to streamlined processing under Section 63.12 of the Commission's Rules. 47 C.F.R. § 63.12. Payment in the amount of \$895.00 (Fee Code CUT) is being concurrently made. See 47 C.F.R. § 1.1107(2)(c).

In support of its request for authority, OTSI submits the following information pursuant to Section 63.18 of the Commission's Rules:

- (a) Name, address and telephone number of OTSI:

Optivon Telecommunications Services, Inc.  
27 Gonzalez Giusti Avenue  
Suite 100  
Guaynabo, PR 00966-3165  
(787) 625-2737

- (b) OTSI is a corporation organized under the laws of the Commonwealth of Puerto Rico.

- (c) Correspondence concerning this Application should be addressed to:

Frederick M. Joyce, Esq.  
Venable LLP  
575 7<sup>th</sup> Street, NW  
Washington, DC 20004-1601  
(202) 344-4653  
rjoyce@venable.com

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to provide services between the U.S. and Puerto Rico, and Optivon was organized pursuant to the laws of Puerto Rico, the information provided herein will correspond, where pertinent, to the assumption that Optivon is also a "foreign carrier" for the purposes of this Application. Nonetheless, because, as shown herein, Optivon lacks market power, the Commission's Rules permit it to obtain the requested authority and this Application may be processed under the Commission's streamlined processing rules.

with copies to:

Luis G. Romero Font, President & CEO  
Optivon Telecommunications Services, Inc.  
27 Gonzalez Giusti Avenue  
Suite 100  
Guaynabo, PR 00966-3165  
(787) 625-2737  
lromero@optivon.com

- (d) OTSI has not previously received Section 214 authority from the Commission.
- (e) OTSI is applying to operate as an international resale carrier pursuant to Section 63.18(e)(2) of the Commission's Rules, 47 C.F.R. § 63.18(e)(2). OTSI requests authority to provide resold services between the U.S. mainland and the Commonwealth of Puerto Rico. OTSI does not request authority to operate in any other countries at this time. As evidenced by the certification provided in Attachment A, OTSI will comply with the terms and conditions contained in Sections 63.21 and 63.23 of the Commission's Rules. 47 C.F.R. §§ 63.21 and 63.23.
- (f) At this time, OTSI does not seek authority to provide any service not referenced under paragraph (e) of Section 63.18 of the Commission's Rules. 47 C.F.R. § 63.18(e).
- (g) Not applicable: OTSI proposes to provide only resold services.
- (h) OTSI is 100% owned by Optivon, Inc. Optivon, Inc., headquartered at 27 Gonzalez Giusti Avenue, Suite 100, Guaynabo, PR, 00968, is a U.S. company providing telecommunications and information services. All of the persons and entities owning 10% or more of the equity of Optivon, Inc. are listed as follows:

Name: Luis G. Romero Font  
Address: P.O. Box 11032, San Juan, PR 00923  
Citizenship: U.S.  
Principal Business: Telecommunications & Information Services  
Ownership Share: 50.73%

Name: Luis G. Romero Graziani  
Address: P.O. Box 11032, San Juan, PR 00923  
Citizenship: U.S.  
Principal Business: Telecommunications & Information Services  
Ownership Share: 13.98%

Name: PW Acquisition Corporation  
Address: P.O. Box 11032, San Juan, PR 00923  
Citizenship: U.S.  
Principal Business: Finance  
Ownership Share: 16.78% (100% of PW Acquisition Corporation is owned by Luis G. Romero Font)

(i) As evidenced by the certification attached hereto as Attachment A, OTSI is 100% owned by a U.S. company, all the entities that indirectly own 10% or more in OTSI are U.S. citizens, and OTSI was organized under the laws of the Commonwealth of Puerto Rico.

(j) As evidenced by the certification attached hereto as Attachment A, OTSI is a U.S. carrier, which is also a foreign carrier only insofar as it seeks to provide communications services in the destination Commonwealth, Puerto Rico, in which it was organized.

(k) The destination commonwealth, Puerto Rico, is a possession of the U.S., which is a Member of the World Trade Organization. Additionally, as shown in paragraph (m) herein, OTSI lacks market power.

(l) OTSI seeks to resell the services of long distance services of AT&T, MCI, Sprint, Telefonica Larga Distancia De Puerto Rico ("TDL"), and others to be determined. OTSI is unaffiliated with any of those entities. Neither OTSI nor any of its

affiliated entities have sufficient market power to affect competition adversely in the U.S. market. See 47 C.F.R. § 63.10(a)(3). This is illustrated by the information provided in paragraph (m) of this Application.

(m) Pursuant to Section 63.10(a)(3) of the Commission's Rules, OTSI qualifies as a non-dominant carrier; OTSI and its affiliated entities lack 50% market share in the local access and international transport markets in the foreign end of the subject route, Puerto Rico. 47 C.F.R. § 63.10(a)(3). Puerto Rico Telephone ("PRT") controls 93% of the local access market, and most of the domestic and international long distance services in Puerto Rico are controlled by AT&T and TDL.<sup>2</sup> Additionally, Puerto Rico is linked to the U.S. for communications purposes via an extensive satellite network and submarine cables, none of which is owned or operated by OTSI.<sup>3</sup>

(n) As evidenced by the certification provided in Attachment A, OTSI has not agreed to accept any special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market and will not enter into such agreements in the future.

(o) As evidenced by the certification provided in Attachment A, no party to this Application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. 21 U.S.C. § 853(a).

(p) OTSI respectfully requests streamlined processing of this Application pursuant to Section 63.12 of the Commission's Rules. 47 C.F.R. § 63.12. This Application qualifies for streamlined processing for the following reasons: (1) OTSI is a

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<sup>2</sup> See Telecommunications and Information Highways, Puerto Rico.doc, Paul Budde Communications Pty Ltd, 2004 at pp. 3, 6, 8-9. A copy of that report is attached hereto as Attachment B.

<sup>3</sup> Id. at p. 10.

100% U.S. owned company, and it qualifies for a presumption of non-dominance under 47 C.F.R. § 63.10(a)(3); (2) OTSI is not affiliated with any dominant U.S. carrier whose international switched or private lines services it seeks to resell; and (3) OTSI is not requesting authority to provide switched service over private lines to countries not previously authorized for service by the Commission.

WHEREFORE, OTSI respectfully requests that the Commission grant it authority to provide international telecommunications services on a resale basis between the Commonwealth of Puerto Rico and the mainland U.S. pursuant to Section 214 of the Communications Act of 1934, as amended.

Respectfully submitted,

Optivon Telecommunications Services, Inc.

By: 

Luis G. Romero Font, President & CEO  
27 Gonzalez Giusti Avenue  
Suite 100  
Guaynabo, PR 00966-3165  
(787) 625-2737

November 29, 2004

**Optivon Telecommunications Services, Inc.**  
**Application Under 47 U.S.C. § 214**  
**Attachment A**

**CERTIFICATION**

The undersigned hereby certifies, on behalf of Optivon Telecommunications Services, Inc. ("OTSI"), with respect to the foregoing application for authority to provide international services, that:

1. OTSI is 100% owned by a U.S. company, all the entities that indirectly own 10% or more in OTSI are U.S. citizens, and OTSI was organized under the laws of the Commonwealth of Puerto Rico.

2. OTSI will comply with the terms and conditions of Sections 63.21 and 63.23 of the Commission's Rules. 47 C.F.R. §§ 63.21 and 63.23.

3. OTSI is a U.S. carrier which is also a foreign carrier only insofar as it seeks to provide services in the destination country in which it was organized, Puerto Rico. OTSI is entitled to presumptive non-dominant status, as provided in 47 C.F.R. § 63.10.

4. OTSI has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to adversely affect competition in the U.S. market and will not enter into such agreements in the future.

5. No party to this application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. 21 U.S.C. § 853(a).

By: 

Title:

President & CEO

Date:

November 29, 2004